have been the case, it would have been better for him to have expressed it so that it could have been tested by questioning Mr. Wilson as to whether Sudin was allowed bail, thereby securing an opportunity either to "plant" the shirt himself, or to arrange for Tan Ah Leng, or some other person, to "plant" it. It was stated before me that Sudin was not granted bail, and this fact appears to me completely to dispose of the theory that the shirt was "planted" after Sudin's arrest. If, as the Magistrate suggests, it was "planted" before his arrest, this is quite inconsistent with the theory that the charge against the Respondent was framed as a reprisal.

For these reasons, I am of opinion, that the Magistrate so misdirected and confused himself on the material evidence in the case that his conclusions on the evidence of Sudin and the corroborative evidence cannot stand.

Mr. Walters urged that, even allowing that the Magistrate had erred, the order of acquittal should stand. It is well recognised that an appellate Court will not interfere with an acquittal by the trial Court if it is shown that the case for the prosecution was such that it would not be safe to convict, quite apart from any question of misdirection and Mr. Walters endeavoured to shew that this principle should be applied here. I am, however, unable to accept the view that no Court would reasonably have held that there was a case to meet at the close of the prosecution. If I were prepared to consider changing the verdict of acquittal into a conviction without seeing the witnesses, I would give full weight to the various possibilities of the case put forward by Mr. Walters, but in such a matter as this where the issue is which of two witnesses is to be believed, a Court which has not seen and heard the witnesses is at a grave disadvantage. Although the learned trial Magistrate had this advantage, I am unable for the reasons stated to regard as satisfactory the manner in which he weighed the evidence and considered the probabilities of the case and I, therefore, propose to send the case for re-trial. I refrain from expressing any views as to the merits of the suggestions put forward by Mr. Walters, for fear that such a finding might be deemed to influence the view of the Court which re-hears the case.

For the same reason, I refrain from expressing any final opinion on the third ground of appeal, lest it should fetter the judgment of that Court if the evidence is tendered on the re-trial. I would, however, say that I have always read subsection (2) of section 8 of the Evidence Ordinance as relating to conduct in connection with the offence charged. The conduct, of which evidence was tendered in this case, appeared to relate to or to suggest an intention to commit other offences, and at the moment I am of opinion that if the evidence were admissible at all, it would appear to be admissible under section 14 or section 15 of the Ordinance.

The order of acquittal will be reversed and I direct that the Respondent be re-tried on the same charge before a District Judge or another Magistrate appointed to exercise the powers of a District Judge.

Retrial ordered.

EXTRA ASSISTANT CONTROLLER OF LABOUR for and on behalf of Mohinder Singh and 36 others vs. SHAH SINGH AND ANOTHER; SUPERINTENDING CIVIL ENGINEER, H.M. NAVAL BASE, SINGAPORE (Garnishee).

[Orig. Civil Juris. (McElwaine, C.J.) October 14, 1941]

Procedure — Garnishee summons against Superintending Civil Engineer, H. M. Naval Base, Singapore — Jurisdiction — Courts Ordinance Ss. 88 and 89.

A garnishee summons notice and a garnishee summons were served on the Superintending Civil Engineer, H.M. Naval Base, Singapore as garnishee, and after hearing the summons the learned District Judge ordered the garnishee to pay a sum of money to the Bailiff on account of the judgment debtors out of money in his hands due to the judgment creditors. The money sought to be attached was due (if at all) to the judgment debtors under contracts made between them and the Lords Commissioners of the Admiralty.

Held, that there is no jurisdiction in any court in the Colony to compel the Lords Commissioners of Admiralty to pay any money in the absence of a submission to the jurisdiction.

Cases referred to:—

(1) *Poh Yee Choi vs. Shun Fah & Co., Paymaster, Malaya Command* (Garnishee) (1942) M.L.J. 6.

(2) *Simpson v. Crowle* (1921) 3 K.B. 243.

(3) *Grech v. Board of Trade* 39 T.L.R. 630.

(4) *R. v. Dennis* (1924) 1 K.B. 867.

(5) *Duff Development Co. v. Government of Kelantan* (1924) A.C. 797.

(6) *Attorney-General v. Hotham.* Turner and Russell 209.

MOTION.

Dr. Withers-Payne for Lords Commissioners of Admiralty.

C. H. Butterfield (Crown Counsel) for Assistant Controller of Labour.

McElwaine, C.J.—Upon motion made on behalf of the Commissioners for executing the Office of the Lord High Admiral of the United Kingdom it was ordered that all parties concerned do attend this Court to show cause why an Order of Prohibition should not issue directed to the District Judge at Singapore and the Judgment Creditors to prohibit them from further proceeding in Civil District Court garnishee summons No. 6 of 1941 upon the ground that the said Civil District Judge has no jurisdiction to hear or determine such summons and/or to make any order thereon.

In compliance with this order the Extra Assistant Controller of Labour appeared by Mr. Butterfield, Crown Counsel, and consented to the Order being made. I considered he was right in so consenting and I made the Order.

The money sought to be attached is due (if it is due at all) to the judgment debtors under contracts made between them and the Lords Commissioners of the Admiralty and the only monies in the hands of the garnishee out of which may be paid any just claims of the judgment debtors are the funds and monies of the Crown in its Government of the United Kingdom which monies are administered by and under the control of the Lords Commissioners of the Admiralty.

A garnishee notice and a garnishee summons were served on the Superintending Civil Engineer, H. M. Naval Base, Singapore as garnishee, and after hearing the summons the learned District Judge ordered the garnishee to pay to the Bailiff on account of the judgment debtors out of money in his hands due to the judgment debtors $592.45 and $4 costs.

In *Poh Yee Choi and Chan Chin Moi* (Plaintiffs) *v. Shun Fah & Co.* (Defendants), *The Paymaster, Malaya Command* (Garnishee) [1] I held that monies due by a Department of His Majesty's Government in the United Kingdom cannot be garnished in this Colony. What can be garnished is a debt for which the judgment debtor could sue the garnishee. The judgment debtors could not sue the Lords Commissioners of the Admiralty in this Court unless their Lordships submitted to the jurisdiction, and it follows that a creditor of the judgment debtor can have no greater right.

There is no jurisdiction in any Court in this Colony to compel the Lords Commissioners of the Admiralty to pay any money in the absence of a submission to the jurisdiction.

It does not appear whether any objection to the jurisdiction was raised before the learned District Judge, but even if it was not, jurisdiction cannot be conferred by waiver of objection, *Simpson v. Crowle*[2]; *Grech v. Board of Trade*[3]; *R. v. Dennis*[4]; *Duff Development Co. v. Government of Kelantan*[5].

Nothing in the Courts Ordinance gives jurisdiction to sue the King in His Government of the United Kingdom, or to attach his monies, and such suits are not covered by the Crown Suits Ordinance.

No rule can be properly made under section 88 or 89 of the Courts Ordinance which goes beyond the jurisdiction of the Court, and so far as Order XXVII r. 9 (3) (b) of the District Court Rules implies that monies the property of His Majesty's War Office, Admiralty or Air Ministry can be attached in this Colony it is ultra vires.

There was no jurisdiction to make the order attaching this money, and, to quote the words of the Master of the Rolls in *Attorney-General v. Hotham*[6] "it follows as a matter of course, if they had no jurisdiction, that their decision is a nullity: it does not create any necessity for an appeal, when a limited tribunal takes upon itself to exercise a jurisdiction which does not belong to it; if it decides upon matters, with respect to which it has no authority, its decision amounts to nothing, and no party can in the least be bound by it."

I therefore made the order prohibiting the District Judge and the judgment creditors from further proceeding in Civil District Court Garnishee Summons No. 6 of 1941.

By agreement there will be no order as to costs.

Order accordingly.

F. M. S. REPORTS.

P. P. vs. CHUAN HOO.

[App. Crim. Juris. (Poyser, C.J.) February 5, 1941]

Second-hand Dealers Enactment (Cap. 86) Sections 2 (ii), 6 and 9—Person in possession of second-hand goods in unusual quantity and apparently exposed for sale presumed to be a dealer in second-hand goods.

The respondent was found in possession of second-hand goods in an unusual quantity and these goods were apparently exposed for sale. There was no evidence that he had actually sold any of these goods.

Held, that having regard to the presumption in sub-section (ii) of Section 2 of the Second-hand Dealers Enactment there was ample uncontradicted evidence to show that the respondent was a dealer within the meaning of the Enactment and that he was guilty of the